

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Roosevelt Chandler,

Case No. 1:18 CV 1810

Petitioner,

ORDER ADOPTING
REPORT AND RECOMMENDATION

-vs-

JUDGE JACK ZOUHARY

Warden Brigham Sloan,

Respondent.

Petitioner *pro se* Roosevelt Chandler seeks a Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. 1). He is currently serving an eight-year sentence after being convicted by a jury of felonious assault, with two gun specifications, in the Cuyahoga County Common Pleas Court (Doc. 13 at 1).

Chandler appealed to the state appellate court, which affirmed his conviction and sentence (*id.* at 4). Chandler then filed an untimely notice of appeal with the Ohio Supreme Court, along with a motion for leave to file a delayed appeal (*id.*). After that motion was denied, Chandler filed in this Court the Petition, which was automatically referred to Magistrate Judge Carmen Henderson under Local Civil Rule 72.2(b)(2) (Non-Doc. Entry 07/06/2020). Respondent filed a Return of Writ (Doc. 6); Chandler filed a Traverse (Doc. 12).

Judge Henderson then issued a Report and Recommendation (“R&R”), concluding the Petition should be dismissed because each of Chandler’s claims are procedurally defaulted and he fails to “demonstrate[] cause and prejudice or a fundamental miscarriage of justice to excuse his

procedural default" (Doc. 13 at 11). After review, this Court adopts the R&R in its entirety. *See Hill v. Duriron Co.*, 656 F.2d 1208 (6th Cir. 1981).

Although this Court reviews *de novo* any portions of an R&R to which a party timely objects under 28 U.S.C. § 636(b)(1), failure to timely object waives district and appellate court review of the R&R. *See Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). The R&R notified the parties that failure to object would result in waiver (Doc. 13 at 13). *See Walters*, 638 F.2d at 950. The deadline for objections has passed. This Court therefore adopts the R&R (Doc. 13) in its entirety.

The Petition (Doc. 1) is dismissed. There is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c)(2). Further, an appeal from this Order could not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

August 6, 2021